

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
SE/S Southern Road, 150 ft. * ZONING COMMISSIONER
NE of Kingston Road *
2212 Southern Road * OF BALTIMORE COUNTY
15th Election District *
5th Councilmanic District * Case No. 94-232-A
Marlane M. Goetzinger *
Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for that property located at 2212 Southern Road in the Hawthorne subdivision of Baltimore County. Variance relief is requested from Section VI-"D", Residence zone, C.3, of the Baltimore County Zoning Regulations (B.C.Z.R.) which were effective from 1945 to 1953. Specifically, relief is sought to permit a side yard setback of 4 ft. for an elevated shed, in lieu of the required 10 ft. The relief requested is more particularly shown on Petitioner's Exhibit No. 1, the plat to accompany the Petition for Variance.

This matter was originally filed as a Petition for Administrative Variance pursuant to Section 26-127 of the Baltimore County Code. This section can allow a variance to be granted for an owner/occupied residential property without a public hearing. For such properties, the owner petitions this office for an administrative variance and notice of the said Petition is posted conspicuously on the property. If a request for a public hearing is not made by an interested neighbor or required by the Zoning Commissioner, a variance can be granted without a public hearing. In this case, after the requisite posting, a request for hearing was received from Anna Clevenger, owner of the adjacent property located at 2214 Southern Road. Thus, the matter was scheduled for a public hearing.

Appearing at the public hearing held for this case was Glenn M. Goetzinger, son of the property owner, Marlane M. Goetzinger. Also appearing was Anna Clevenger.

Testimony and evidence presented is that the subject lot is at the end of a block of townhouses which front Southern Road. This townhouse development is apparently quite old and the inside townhouse units are 16 ft. wide and 32 ft. deep. The subject property contains a slightly larger dwelling which, although 32 ft. deep, is 18 ft. wide. The lot totals 28 ft. in width, leaving a side yard facing the Clevenger property of 10 ft.

Ms. Clevenger's lot and house are similarly dimensioned. The lot is also 28 ft. wide and the house is also 18 ft. wide and 32 ft. deep. It is also to be noted that the Petitioner's house has been improved with an existing addition to the rear. This addition attaches to the back of the house and measures 16 ft. wide and 22 ft. deep. Also the photographs show that a shed has been placed in the rear portion of the lot not far from the subject deck.

Apparently, on or about Labor Day in 1993, the Petitioner decided to construct a deck. The deck is attached to the side of the house and runs down the entire length of the side wall, some 32 ft. The deck was built without a permit. Apparently, the Petitioner did not believe that he needed a permit at that time. The deck is significant in size. In addition to extending 32 ft. in depth along the entire side of the house, it also runs from the side wall to within 4 inches of the Clevenger property line. That is, it is almost 10 ft. in width. Moreover, in November of 1993, the Petitioner constructed a shed on the rear of the deck which is clearly seen in the photographs presented. Mr. Goetzinger indicated that this shed was constructed for storage purposes and also to be used when

guests were entertained on the deck. Mr. Goetzinger believes that the deck and shed are entirely appropriate and should be permitted.

As to Mrs. Clevenger, she objects to this large deck and shed so close to her property line. As noted, these are townhouse lots and are not significantly sized properties. In fact, both the Clevenger and Goetzinger lots appear to be approximately 2800 sq. ft., or less than 1/10th of an acre in area. Mrs. Clevenger notes that trash and debris can accumulate in the narrow 4" space between the end of the deck and the fence separating her property and the Petitioner's property, and that grass cannot be cut. She believes that the improvements present an eyesore and an intrusion onto her property.

The Petitioner seeks relief from regulations contained in an old version of the B.C.Z.R. Particular note need be given to Section 1802.3 of the B.C.Z.R. which provides special regulations for existing developments or subdivisions in D.R. zones. In fact, the Hawthorne community was apparently recorded on or about February 26, 1954. As such, development therein, including the deck and shed, are governed by the B.C.Z.R. which was in effect on that date. It is interesting to note that the 1945-55 B.C.Z.R. did not require any specific setback for uncovered porches and decks. Rather, uncovered porches, fire escapes, open stairways and etc., were permitted if they would not obstruct light and ventilation. In that the subject deck is only 3 ft. in height, it is clear that same does not interfere with light and air to the neighboring property. However, the Office of Zoning Administration and Development Management (ZADM) correctly advised the Petitioner that a variance would be required for the shed. The shed, which is 6 ft. x 4 ft. in footprint, is 8 ft. high with a peaked roof and thus is over 11 ft. off the ground. Clearly, this size justifies

an inquiry as to whether the shed disturbs light and air available to other properties.

In that I am obligated to consider the Petition in accordance with the 1945 regulations, I cannot require the Petitioner to eliminate or reduce the deck. However, it should be noted that, in my view, the deck is entirely too large for this property. This is but a small property, as noted above. It is already improved with an existing dwelling, an addition and a shed in the rear yard. There is only so much land available for impervious surface and building. I believe that the Petitioner has overburdened and overwhelmed this property by constructing the deck. However, it does not block and air and thus must be permitted to remain under the applicable regulations.

The shed, however, is another matter. As the photos show, it towers over the Clevenger's side yard. In my view, it does, indeed, impermissibly block light and air to the neighboring property. Thus, the Petition for Variance should and must be denied.

It is also to be noted that the Petitioner has offered no compelling reason to justify the practical difficulty standard enunciated in Section 307 of the B.C.Z.R. Therein, the standard for any variance relief is prescribed. The reasons stated by the Petitioner at the hearing in support of the variance were more for matters of convenience. That is, the Petitioner would like the shed for additional storage space and for entertaining. It is difficult to accept the claim for storage in view of the existing house, addition thereto and storage shed already on the property. His claim that the shed helps to entertain his guests more fashionably is insufficient to justify the variance. Thus, the Petition for Variance must and shall be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 15th day of March, 1994 that a variance from Section VI-"D", Residence zone, C.3, of the Baltimore County Zoning Regulations (B.C.Z.R.) which were effective from 1945 to 1953 to permit a side yard setback of 4 ft. for an elevated shed, in lieu of the required 10 ft., be and is hereby DENIED.

1. The Petitioner shall be allowed ninety (90) days from the date of this Order to tear down the 6 ft. x 4 ft. x 8 ft. elevated existing shed.
2. Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to ensure compliance with this Order.

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/mm

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

March 14, 1994

Mrs. Marlane M. Goetzinger
Mr. Glenn M. Goetzinger
2212 Southern Road
Baltimore, Maryland 21220

RE: Case No. 94-232-A
Petition for Variance
Property: 2212 Southern Road

Dear Mr. and Mrs. Goetzinger:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been denied, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner

LES:mm
att.
cc: Mrs. Anna Clevenger
2214 Southern Road
Baltimore, Maryland 21220

Petition for Administrative Variance
to the Zoning Commissioner of Baltimore County
for the property located at 2212 Southern Road Balto. 21220
which is presently zoned DR 155

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property above in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section VI - RESIDENCE ZONE C.3
1945-1953 B.C.Z.R. TO PERMIT A SIDE YARD SETBACK OF 4 FT. IN LIEU OF THE REQUIRED 10 FT. FOR AN ATTACHED SHED.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)
I have - SEE OTHER SIDE.

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Legal Owner(s)
Marlane M. Goetzinger (owner)
Marlane M. Goetzinger
Address
2212 Southern Rd. 682-5499
Baltimore Md 21220
Phone, Address and place number of representative to be contacted
Glenn M. Goetzinger
2212 Southern Rd. 682-5499
21220

A Public Hearing having been requested under Part 1 of the Ordinance, the undersigned, the Zoning Commissioner of Baltimore County, this 14th day of March, 1994, do hereby certify that the petition and facts herein are true and correct to the best of his/her knowledge and belief.

Zoning Commissioner of Baltimore County

Affidavit in support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:
That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) believe and swear to the truth thereof in the event that a public hearing is scheduled in the future with regard thereto.
That the Affiant(s) describe presently reside at 2212 Southern Rd.
Baltimore Md. 21220

That based upon personal knowledge, the following are the facts upon which I/we have the request for an Administrative Variance as set forth above: (Indicate hardship or practical difficulty)
My Father is 76 Years Old and is Legally Blind and Handicapped. It is Very Difficult for him to get around. This deck is on floor level so he may access it with ease. My dad walks with a cane and walker and may soon be confined to a wheel chair. Very soon we have handicap parking in front.

The Affiant(s) acknowledge(s) that if a process is filed, Affiant(s) will be required to pay a reporting and advertising fee and may be required to provide additional information.

Marlane M. Goetzinger
MARLANE M. GOETZINGER
STATE OF MARYLAND, COUNTY OF BALTIMORE
I HEREBY CERTIFY, this 14th day of March, 1994, before me, a Notary Public of the State of Maryland, to and for the County aforesaid, personally appeared
Marlane M. Goetzinger
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath to the truth of the facts herein stated and sworn to be true and correct to the best of his/her knowledge and belief.
At WYOMING my hand and Notarial Seal.
12-1-93
My Commission Expires July 1, 1995

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: December 10, 1993

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item Nos. 206, 222, 223, 228 and 232.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 897-3490.

Prepared by: Jeffrey M. Long
Division Chief: Carol L. Lewis

PK/JGL:lw

ZAC, 206/PZONE/ZAC1

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

December 21, 1993

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

FROM: J. Lawrence Pilson
Development Coordinator, DEPRM

SUBJECT: Zoning Item #228 - Goetzinger Property
2212 Southern Road
Zoning Advisory Committee Meeting of December 13, 1993

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

The shed is already existing, thus this project shall not need a Chesapeake Bay Critical Area Findings since it's not considered a "Development Activity."

JLP:KK:sp

GOETZING/DEPRM/TEXTSP

Baltimore County Government
Office of Zoning Administration
and Development Management111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

JANUARY 7, 1994

Marianna M. Goetzinger
2212 Southern Road
Baltimore, Maryland 21202

Re: Case Number: 94-232-A
2212 Southern Road

Dear Petitioners:

A formal REQUEST FOR PUBLIC HEARING has been filed in your case. Formal notification of the hearing date will be forwarded to you shortly.

As you recall, it now becomes necessary to report the property and run notice of the hearing in a newspaper of general circulation. This office will ensure that the legal requirements for posting and advertising are satisfied.

Posting charges in the amount of \$25.00 are now due. Your check in this amount should be made payable to "Baltimore County, Maryland" and immediately mailed to this office.

Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

Please be further advised that non-payment of fees will stay the issuance of the Zoning Commissioner's Order.

If you have any questions concerning this letter, you may contact Gwen Stephens at 887-1391.

Very truly yours,

Arnold Jablon
ARNOLD JABLON, DIRECTOR

Printed with Soybean Ink
on Recycled PaperBaltimore County Government
Office of Zoning Administration
and Development Management111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DECEMBER 14, 1993

WRITER OF CASE NUMBER ASSIGNMENT

TO: Marianna M. Goetzinger
2212 Southern Road
Baltimore, Maryland 21202

Re: CASE NUMBER: 94-232-A (Item 228)
2212 Southern Road
565 Southern Road, 150' NE of Election Road
15th Election District - 15th Councilmanic

Please be advised that your petition for Administrative Zoning Review has been assigned the above case number. Contact made with this office regarding the status of this case should reference the case number and be directed to 887-1391. This notice also serves as a reminder regarding the administrative process.

1) Your property will be posted on or before December 15, 1993. The closing date (January 1, 1994) is the deadline for a neighbor to file a formal request for a public hearing. After the closing date, the file will be reviewed by the Zoning or Deputy Zoning Commissioner. They may (a) grant the requested relief, (b) deny the requested relief, or (c) demand that the matter be set in for a public hearing. You will receive written notification as to whether or not your petition has been granted, denied, or will go to public hearing.

2) In cases requiring public hearing (whether due to a neighbor's formal request or by order of the Commissioner), the property will be posted and notice of the hearing will appear in a Baltimore County newspaper. Charges related to the reporting and newspaper advertising are payable by the petitioner(s).

3) Please be advised that you must return the sign and post to this office. They may be returned after the closing date. Failure to return the sign and post will result in a \$50.00 charge.

PLEASE UNDERSTAND THAT ON THE DATE AFTER THE POSTING PERIOD, THE PROCESS IS NOT COMPLETE. THE FILE MUST GO THROUGH FINAL REVIEW. ORDERS ARE NOT AVAILABLE FOR DISTRIBUTION VIA PICK-UP. WHEN READY, THE ORDER WILL BE FORWARDED TO YOU VIA FIRST CLASS MAIL.

Arnold Jablon
Director

Printed with Soybean Ink
on Recycled Paper

Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

PROPERTY ADDRESS: 2212 SOUTHERN ROAD

Subdivision name: HAWTHORN

Plot book 12, folio 141, lots 7 sections 5

OWNER: Mrs. Marianna Goetzinger

See pages 5 & 6 of the CHECKLIST for additional required information

12 Copies

LOCATION INFORMATION

Election District: 15

Councilmanic District: 5

1"=200' scale map: N.E. 3-1

Zoning: DR, 10.5

Lot size: 2800.0 square feet

SEWER: ☐

WATER: ☐

Chesapeake Bay Critical Area: ☐

Prior Zoning Hearing: "NONE"

Zoning Office USE ONLY:

Reviewed by: ITEM # 228

date: 12/2/93

prepared by: Glenn Goetzinger

Scale of Drawing: 1"=30'

94-232-A

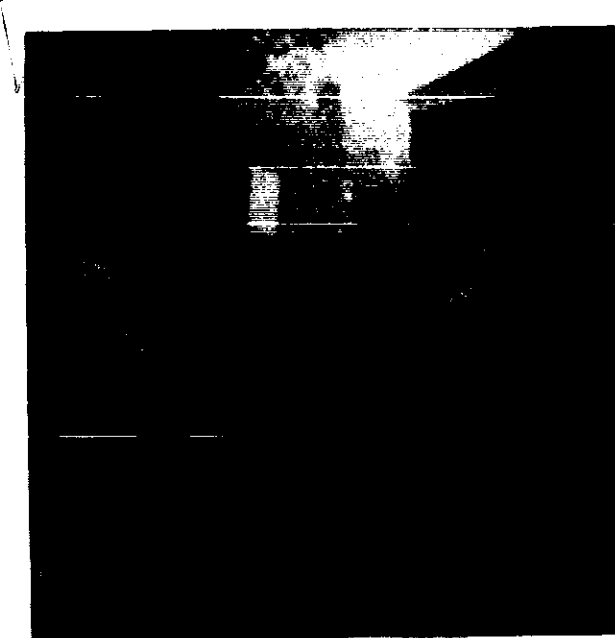
Part No 1

H.O.

94-232-A

The reason for this rather odd request is for the shed which is attached to the side of the dwelling - is sitting on a side deck. The deck runs under which the house is permitted for front on wrapped porch, deck, etc. to be located anywhere in yard when it doesn't block light and ventilation. At 3 ft in height I see no problem here. However, the attached 4x6 shed is roofed - needs structural study, setbacks or a variance. This came to our attention on a stop work order by Pat Keller per bldg permit.

12/2/93
Glenn



This deck was put up on Friday September 3rd, Labor Day weekend. He had friends over that weekend and I found beer cans on my side of the yard and my gate was open. At that time they did not build a (bar) on top of the deck.

The next weekend, September 11 and 12th, he took the fence between our property down without asking my permission, so I waited to see if he was going to put it up but he did not and that is when I started to inquire if he had a Permit (9/14/93) or if he had violated my rights. I called his wife and told her I wanted the fence back up, but by the end of the evening it was still down, so I went out and the worker (Paul) was still there working even though a Stop Working Permit was issued earlier that day. He told me that he had told Glenn that he should have asked me before taking it down and laying it on my property without saying anything. I also found out that Glenn was planning to take the entire fence down along with the poles and build a flower box between our properties. Then Glenn arrived from the store and I told him that I wanted the fence up and that is when he put it back up. He finally applied for a permit (which later I found out was obtained under false information, "building on a pre-existing deck"). There never was a deck.

He finally talked to me concerning this project on November 11th, 2 months afterwards. He told me that he built this deck and bar for his farther-in-law which I feel is false. He can easily turn the bar in something else later.

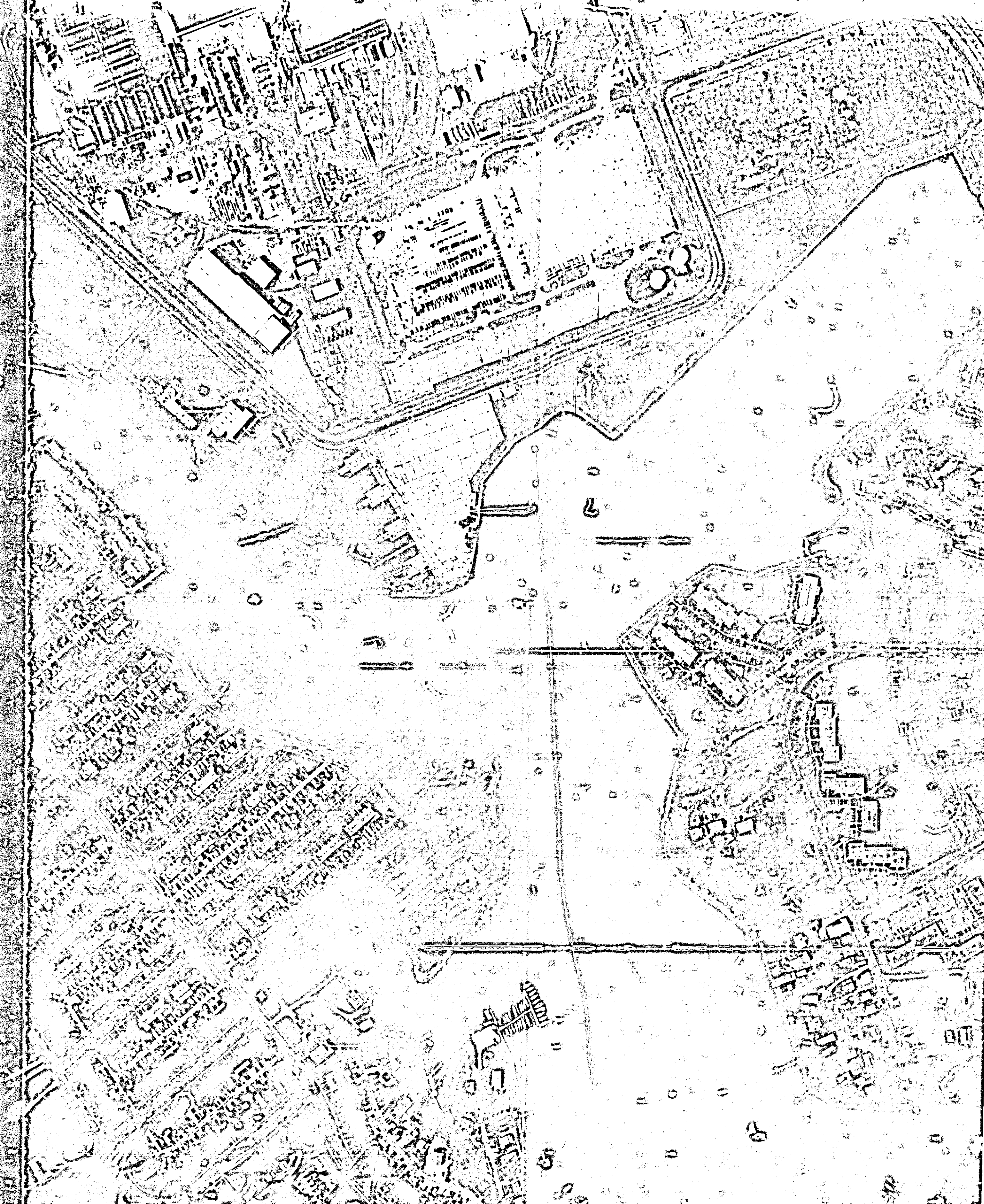
Since he decided to build himself another room in the back of the house and close the back entrance, he made this deck the new entrance which faces my side of the house. Now he built this huge deck (which is too high and within 10 feet of my windows) and covered bar. I only ask that whatever he builds is legally done (under the zoning and building permit laws). I am looking after my own rights which I am entitled to since I am a taxpayer.

When we bought this house I had a good feeling because there was enough space between the buildings for some privacy, now with this overbuilding it has been taken away from me.

Since I am the one affected with this infraction, I am here alone, but many people on our street feel that he is overbuilding and not appropriate for our neighborhood. A variance should not be allowed for the following reasons:

- 1) Against zoning code.
- 2) Depreciates my property value.
- 3) The deck is too high, big and, too close to my windows.
- 4) It has a covered (back/shed/building) which is not allowed between the buildings.
- 5) Maintenance is hard between the properties unless I take the fence down.

Ann Cloeser
2214 Southern Rd.
Baltimore, Md. 21222



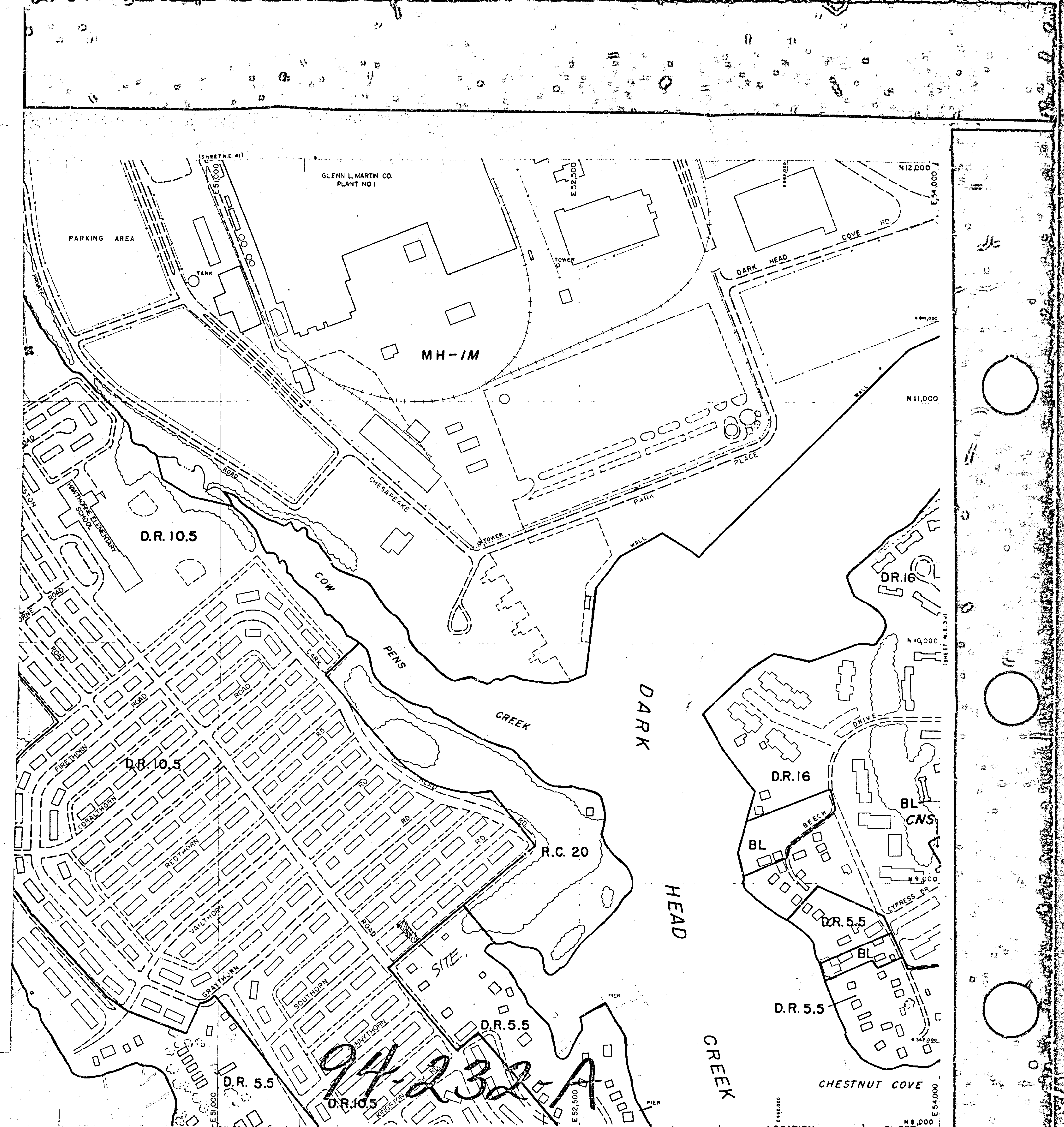
BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

N.E. 3-1
228

SCALE 1" = 200' ±	LOCATION MIDDLE RIVER KINGSTON	SHEET N.E. 3-1
DATE OF PHOTOGRAPHY JANUARY 1986		

DR.16
1-SE
1-NE

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992
William A. Howard
Chairman, County Council

SCALE 1" = 200' ±	LOCATION MIDDLE RIVER KINGSTON	SHEET N.E. 3-1
DATE OF PHOTOGRAPHY JANUARY 1986		

NE 3-1
228